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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,977	12/29/2005	Takehiko Tojo	283027US3PCT	3537
22850 7590 08/13/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER DOAN, ROBYN KIEU				
ART UNIT 3732		PAPER NUMBER		
NOTIFICATION DATE 08/13/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/562,977

**Applicant(s)**

TOJO ET AL.

**Examiner**

Robyn Doan

**Art Unit**

3732

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 22 and 24 is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 13-17, 20, 21 and 23 is/are rejected.
- 7) ☐ Claim(s) 10-12 and 18, 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/16/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP (2003319814, IDS cited reference) in view of DE '176 and Iskra (USP 5,021,050).

JP '814 discloses a hair holder (figs. 1a-c) comprising hair holding sheets (24, 23) for holding a hair bundle in a prescribed shape, wherein the sheets being made of polyethylene nonwoven fabric material (paragraph 018, line 9) which has a Taber stiffness of higher than 0.2mN-m. JP '814 fails to show a hair treating agent being impregnated within the sheets and the sheets having a water retention of 0.3g/cm<sup>2</sup> or more. DE '176 discloses a hair holder (fig. 1) comprising a sheet (12) having a plurality of sealed agent packets (11) with hair treatment agent (14) sealed therein, wherein the sealed packets being formed by a packet forming sheet (10) and a side of the hair holding sheet, the packet forming sheet having a plurality of recesses (see fig. 2) which are concave in the thickness direction and in which the hair treating agent is sealed. Iskra teaches it is known in the art to have a polyethylene nonwoven fabric material comprising a Taber stiffness of higher than .2mN-m and a water retention of higher than 0.3g/cm<sup>2</sup> (col. 13, lines 52-58). It would have been obvious to one having an ordinary

skill in the art at the time the invention was made to modify the hair holding sheets of JP '814 with the hair treating agent as taught by DE '176 and the polyethylene nonwoven fabric material as taught by Iskra in order to reduce the step of applying the hair treating agent after rolling the hair since the hair agent being within the device and to also provide a flexibility to the device and still absorbs sufficient quantities of liquids. In regard to claims 16, 17, the device shown by JP '814 in view of DE '176 and Iskra will perform the method recited in the claims during normal operational use of the device; further, DE'176 further shows a step of placing a hair bundle on the hair holder and rolling up the hair holder with the hair bundle (see fig. 5) and inherently teaches the step of applying pressure to the sealed agent to break the packets thereby releasing the hair treating agent to the hair.

Claims 1, 3, 4, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP (2003319814, IDS cited reference) in view of Takehana (JP '836 IDS cited reference) and Iskra (USP 5,021,050).

JP '814 discloses a hair holder (figs. 1a-c) comprising hair holding sheets (24, 23) for holding a hair bundle in a prescribed shape, wherein the sheets being made of polyethylene nonwoven fabric material (paragraph 018, line 9) which has a Taber stiffness of higher than 0.2mN-m. JP '814 fails to show a hair treating agent being impregnated within the sheets and the sheets having a water retention of 0.3g/cm<sup>2</sup> or more. Takehana discloses a hair holder (fig. 1) comprising two sheets (2) sealed together at side edges (3), the sheets adapted for holding a hair bundle in a prescribed shape, the hair holder retaining a hair treating agent (translated abstract). Tekehana

also show the device having a flat tube (fig. 2) having two sides (2, 3) and a hollow therein, each of the sides being formed of the agent impregnated sheets (4) and the flat tube having an outer surface being made of an agent impermeable layer (aluminum foil, abstract). Iskra teaches it is known in the art to have a polyethylene nonwoven fabric material comprising a Taber stiffness of higher than .2mN-m and a water retention of higher than 0.3g/cm<sup>2</sup> (col. 13, lines 52-58). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the hair holding sheets of JP '814 with the hair treating agent as taught by Takehana and the polyethylene nonwoven fabric material as taught by Iskra in order to reduce the step of applying the hair treating agent after rolling the hair since the hair agent being within the device and to also provide a flexibility to the device and still absorbs sufficient quantities of liquids.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP (2003319814) in view of Takehana and Iskra as applied to claim 1 above, and further in view of WO 03/007752 (IDS cited reference).

JP '814 in view of Takehana and Iskra discloses the essential claimed invention as discussed in claim 2 above except for one of the holding sheet having a plurality of holes through which a hair bundle is adapted to be threaded. WO '752 shows a hair holder (fig. 1) having a plurality of holes (7a, b) throughout the hair holder to allow the insertion of the hair bundle into the hair holder. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the

plurality of holes as taught by WO '752 into the hair device of JP '814 in view of Takehana and Iskra in order to facilitate the hair insertion purpose.

Claims 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '814 in view of Takehana and Iskra as applied to claim 1 above, and further in view of Wararoff (USP 4,470,423 IDS cited reference).

JP '814 in view of Takehana and Iskra discloses the essential claimed invention as discussed in claim 1 above except for at least one holding sheet having a hair treating agent with a viscosity of 100mPa·s or higher. Wararoff discloses it is known in the art to have a hair treating agent with a viscosity of 100mPa·s or higher (col. 3, lines 40-43). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the hair treatment as taught by Wararoff into the hair holder of JP '814 in view of Takehana and Iskra in order to provide a stronger shape effectiveness with respect to the hair treating agent.

Claims 14, 15, 20, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '814 in view of DE '176 and Iskra as applied to claim 13 above, and further in view of Takehana.

JP '814 in view of DE '176 and Iskra the essential claimed invention as discussed in claim 13 above except for the hair holding sheets having a shape of a flat tube forming a hollow therein. Takehana as discussed above shows a hair holding device comprising hair holding sheets forming a flat tube (see fig. 2). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to

form the hair holding sheets of JP '814 in view of DE '176 and Iskra being a flat tube as taught by Takehana as an alternative way of styling the hair.

***Allowable Subject Matter***

Claims 9, 22, 24 are allowable.

Claims 10-12, 18, 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/  
Primary Examiner, Art Unit 3732